

IT IS ORDERED as set forth below:

Date: May 31, 2019



A handwritten signature in black ink, appearing to read "Lisa Ritchey Craig".

Lisa Ritchey Craig
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBER
	:	
CASSANDRA JOHNSON LANDRY,	:	18-55697-LRC
aka CASSANDRA LANDRY,	:	
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
DEBTOR.	:	BANKRUPTCY CODE

ORDER DENYING DEBTOR'S MOTION TO CONVERT

Before the Court is Debtor's Motion to Convert from Chapter 7 to Chapter 13 (the "Motion"). (Doc. 154). The Court held a hearing on the Motion on March 28, 2019.

Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on April 3, 2018. (Doc. 1). On September 13, 2018, Debtor voluntarily converted her case from Chapter 13 to Chapter 7. Debtor now seeks reconversion of her case to Chapter 13. Debtor does not explain why she would like to reconvert other than stating her "intention

of maintaining and sustaining [Debtor's] personal property in the bankruptcy.” (Doc. 154). Melissa Davey, the former Chapter 13 trustee (the “Former Chapter 13 Trustee”), opposes the Motion on the basis that it was filed in bad faith.

“The debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title.” 11 U.S.C. § 706(a). In *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 371-72 (2007), the Supreme Court held that a Chapter 7 debtor does not have an absolute right to convert to Chapter 13. Rather, the right to convert is tempered by § 706(d), which provides that “[n]otwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.” *Id.* at 372. Accordingly, a court may deny a debtor’s first request to convert from Chapter 7 to 13 where cause would exist to dismiss the case under § 1307(c). *Id.* at 373.

The Court has even greater discretion to deny a motion to reconvert. *In re Povah*, 455 B.R. 328, 340 (Bankr. D. Mass. 2011).¹ Unlike a debtor requesting conversion, which *Marrama* held could only be denied in “extraordinary cases[,]” *Marrama*, 549 U.S. at 375 n.11, a debtor who seeks to reconvert to Chapter 13 bears the burden of establishing good

¹ In fact, as the Former Chapter 13 Trustee has noted, there is a split of authority as to whether § 706(a) even permits reconversion. Compare *In re McLawhorn*, 2014 WL 4948120, at *1 (Bankr. E.D. N.C. Oct. 2, 2014) (holding a debtor may not reconvert), *In re Muth*, 378 B.R. 302, 302-03 (Bankr. D. Colo. 2007) (same), *In re Hardin*, 301 B.R. 298, 300 (Bankr. C.D. Ill. 2003) (same), and *In re Baker*, 289 B.R. 764, 767 (Bankr. M.D. Ala. 2003) (same), with *In re Reid*, 2019 WL 1004707, at *3 (Bankr. D. Md. Feb. 26, 2019) (holding that reconversion is permitted), *In re Dahl*, 2016 WL 104975, at *3 (Bankr. D. Minn. Jan. 8, 2016) (same), *In re Harris*, 497 B.R. 652, 665 (Bankr. D. Mass. 2013) (same), *In re Povah*, 455 B.R. 328, 340 (Bankr. D. Mass. 2011) (same), and *In re Johnson*, 376 B.R. 763 (Bankr. D.N.M. 2007) (same).

faith and the feasibility of reorganization. *In re Reid*, 2019 WL 1004707, at *3 (Bankr. D. Md. Feb. 26, 2019); *see also Povah*, 455 B.R. at 341. This interpretation balances the competing bankruptcy policies of giving the debtor every chance to voluntarily repay her debt and protecting creditors from the delay attendant to a fruitless effort to reconvert. Here, Debtor has failed to demonstrate the good faith and feasibility that would warrant the Court's exercising its discretion to reconvert this case to Chapter 13.

First, Debtor's motivation for seeking reconversion demonstrates a lack of good faith. Chapter 13 is a tool for debtors to voluntarily repay their debts over time. It is not simply an alternative forum within which debtors may challenge all of their debts with no intention of paying any creditors. *In re Mitrano*, 472 B.R. 706, 711 (E.D. Va. 2012) (affirming dismissal of Chapter 13 case where the debtor had attempted to use it "as an alternative forum to litigate claims"). The Former Chapter 13 Trustee reported that during Debtor's 341 Meeting of Creditors, before she voluntarily converted to Chapter 7, Debtor testified that she intended to dispute every secured creditor listed in her Chapter 13 plan. (For the Record ("FTR"), at Aug. 14, 2018, 2:34 PM). Debtor continues to dispute those claims and has not identified a single creditor that would be repaid if this case was reconverted to Chapter 13. (FTR, at Mar. 28, 2019, 11:40 AM). Given that Debtor intends to use Chapter 13 as a vehicle to dispute the claims of her secured creditors rather than repay her debt over time, the Court finds that the Motion was not filed in good faith.

The Court's conclusion is further supported by Debtor's conduct in this case. Bankruptcy courts have found that denying conversion due to a lack of good faith is appropriate when there is a clear record of delay or disruptive behavior. *See Cobb v. Husley*

(*In re Cobb*), 216 B.R. 676, 679-80 (Bankr. M.D. Fla. 1998) (finding that debtor's frivolous filings demonstrated a lack of good faith). Such conduct may involve filing duplicative and frivolous pleadings. *In re Truong*, 2009 WL 2929261, at *5 (Bankr. S.D. N.Y. Sept. 3, 2009). In this case, Debtor has filed multiple pleadings wherein she claims that neither she nor her property are subject to the laws of the United States.² (See Submission of Fraud, Doc. 137; Motion to Investigate Fraud, Doc. 147). Similar arguments, made by so-called "sovereign citizens," have been summarily rejected as frivolous. See, e.g., *United States v. Sterling*, 738 F.3d 228, 233 n.1 (11th Cir. 2013); *United States v. Benabe*, 654 F.3d 753, 761-67 (7th Cir. 2011). These filings demonstrate that Debtor has no intent to use Chapter 13 for the legitimate purpose of reorganizing.

Turning to the feasibility of any reorganization, the history of this case raises doubts about whether Debtor could propose a confirmable Chapter 13 plan. Before Debtor voluntarily converted to Chapter 7, the Former Chapter 13 Trustee listed numerous objections to Debtor's proposed Chapter 13 plan. (Docs. 31, 60). Debtor has not filed an amended plan or explained how she intends to resolve the Former Chapter 13 Trustee's objections.

Furthermore, Debtor has failed to demonstrate that Chapter 13 would serve the best interest of her creditors. To have a confirmable Chapter 13 plan, the debtor must

² In addition to these arguments, Debtor has also filed a number of "common law liens." (Docs. 167, 168, 169). These liens, which are common practice in the "Sovereign Citizen Movement," are groundless and not supported by bankruptcy or non-bankruptcy law. See, e.g., *U.S. v. Hart*, 701 F.2d 749, 750 (8th Cir. 1983) (affirming invalidation of "Common-law Liens"); *U.S. v. Barker*, 19 F. Supp. 2d 1380, 1383-84 (S.D. Ga. 1998) (collecting cases finding similar common-law liens are invalid); see also *Liens by 'Sovereign Citizens' a Headache for State Officials*, NPR (Apr. 26, 2013), <https://www.npr.org/templates/story/story.php?storyId=215838773> (last visited Apr. 26, 2019).

demonstrate that unsecured creditors would receive “not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7[.]” 11 U.S.C. § 1325(a)(4). In this case, the Chapter 7 Trustee reported that he has discovered a previously undisclosed life insurance policy worth as much as \$115,000. (FTR, at March 28, 2019, 11:43 AM; *see also* Doc. 156). To satisfy the confirmation requirements, Debtor would be required to propose a plan to pay her creditors the amount they would receive if the Trustee liquidated the life insurance policies, and Debtor has not demonstrated a willingness or an ability to do so. Further, reconversion would needlessly delay distributing funds to creditors, who will receive payment faster and with less risk in a Chapter 7 case.

Finally, Debtor’s remaining in Chapter 7 will also ensure the best outcome for all interested parties. The Chapter 7 Trustee can investigate Debtor’s financial affairs, administer the estate’s assets, object to fraudulent claims, and pursue any meritorious causes of action on behalf of the estate. *See* 11 U.S.C. § 704(1), (5). Allowing Debtor to reconvert to Chapter 13 would not serve a legitimate bankruptcy purpose and would only further delay this case, causing prejudicial harm to Debtor’s creditors. Accordingly, for the above stated reasons,

IT IS HEREBY ORDERED that Debtor’s Motion to Reconvert to Chapter 13 (Doc. 154) is **DENIED**.

END OF DOCUMENT

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Attached list of creditors

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Case 18-55697-lrc
Northern District of Georgia
Atlanta
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641 South Lawrence St
Montgomery, AL 36104-5848

Parnell and Parnell
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PO Box 6344
Harlan, IA 51593-1844

Quantum3 Group LLC as agent for
Comenity Bank
PO Box 788
Kirkland, WA 98083-0788

ReadyCap Lending
420 Mountain Ave
New Providence, NJ 07974-2736

ReadyCap Lending, LLC
c/o Eileen Bottino
420 Mountain Ave
New Providence, NJ 07974-2736

Regency Mortgage
5395 Roswell Rd NE
Atlanta, GA 30342-1976

Regions Mortgage
605 So Perry St
Montgomery, AL 36104-5821

Regions Mortgage
605 South Perry Street
Montgomery AL 36104-5821

Residential Title Inc
Kenneth E. Sullivan
245 West Crogan St
Lawrenceville, GA 30046-4863

Resurgent Capital Services
Cach, LLC
55 Beattie Pl Ste 110
Greenville, SC 29601-5115

Resurgent Capital Services LLP
Freshview Solutions
PO Box 10497
Greenville, SC 29603-0497

Resurgent Capital Services LLP/CACH LLC
P.O. Box 10497
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Richard Green, II, Administrative Judge
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Riverdale Funding
C/O Woiodbridge Funding
12050 Ventura Blvd
Studio City CA 91604-2638

Riverdale Funding
c/o Woodbridge Lending
12050 Ventura Blvd
Studio City, CA 91604-2638

Riverdale Funding
c/o Woodbridge Lending
Woodbridge Group of Companies, LLC
Studio City, CA 91604

Safeco Insurance
175 Berkeley Street
Boston, MA 02116-5066

Safeco Insurance
P.O. Box 10002
Manchester, NH 03108-1002

Saks World Elite/Capital One
Frontline Asset Strategy
2700 Snelling Ave N Ste 250
Roseville, MN 55113-1783

Sarah Hawkins
Little Rock Commercial
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Roswell, GA 30076-2102

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Salt Lake City, UT 84165-0450

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Sound Telecom
PO Box 789050
Philadelphia, PA 19172-0001

Sound Telecom
PO Box 789050
Philadelphia, PA 19178-9050

Southwest Chase
PO Box 1423
Charlotte, NC 28201-1423

Stoneleigh Recovery Associates
PO Box 1118
Charlotte, NC 28201-1118

Stoneleigh Recovery Associates
PO Box 1479
Lombard, IL 60148-8479

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

Synchrony Bank (Sam's Club)
Midland Funding
1355 Roswell Rd Ste 240
Marietta, GA 30062-3690

Tamera Bell
5220 North Somerset LN
Alpharetta, GA 30004-7419

Tamera Bell
c/o Mzekewe Legal LLC
PO 849
Atlanta, GA 30301-0849

Gregory M. Taube
Nelson Mullins Riley & Scarborough, LLP
Suite 1700
201 17th Street, NW
Atlanta, GA 30363-1099

The Bureaus/Capital One
P.O. Box 1479
Lombard, IL 60148-8479

The Downs Homeowners Assoc
c/o Community Mgmt Inc
2120 Hwy 81
Loganville, GA 30052-4331

The Downs Homeowners Association
c/o Georgia Community Mgmt Inc.
Loganville, GA 30052

The Downs Homeowners Association, Inc.
c/o Lazega & Johanson, LLC
P.O. Box 250800
Atlanta, Georgia 30325-1600

Timothy R Hester
1551 Annapolis Way
Grayson, GA 30017-1097

(p)TMX FINANCE LLC FORMERLY TITLEMAX
15 BULL STREET
SUITE 200
SAVANNAH GA 31401-2686

Robert Trauner
P. O. Box 421025
Atlanta, GA 30342-8025

Travelers Insurance
175 Berkeley Street
Boston, MA 02116-5066

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McCalla Raymer Liebert Pierce
1544 Old Alabama Road
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U.S. Bank National Association
3476 STATEVIEW BLVD
MAC D3347-014
FORT MILL, SC 29715-7203

(p)US PREMIUM FINANCE
280 TECHNOLOGY PARKWAY
SUITE 200
NORCROSS GA 30092-2990

Valeri Burnough
7842 Clearview Cir
Riverdale, GA 30296

Valeri Burnough
Delong Caldwell Bridgers
Fitzpatrick & Benjamin
101 Marietta St, NW, Suite 3100
Atlanta, GA 30303-2731

Valeri Burnough
c/o Cassandra Johnson Landry
869 Natchez Valley Trace
Grayson, GA 30017-4963

Veripro Solutions
PO Box 3572
Coppell, TX 75019-5538

Weissman Nowack Curry & Wilco PC
Altisource Portfolio Solutions
One Alliance Center
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Atlanta, GA 30326-4228

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Atlanta, GA 30326-4228

Weissman PC
One Alliance Center
4th Floor
3500 Lenox Rd
Atlanta, GA 30326-4228

Wells Fargo
2135 East Main St
Ste 180
Snellville, GA 30078-6434

Wilmington Savings Fund Society, FSB,
c/o CARRINGTON MORTGAGE SERVICES, LLC
BANKRUPTCY DEPARTMENT
1600 SOUTH DOUGLASS ROAD
ANAHEIM, CA 92806-5951

Wilmington Trust, National Association
Select Portfolio Servicing, Inc.
P.O. Box 65250
Salt Lake City UT 84165-0250

Wilmington Trust, National Association
c/o Select Portfolio Servicing, Inc.
P.O. Box 65250
Salt Lake City, UT 84165-0250

Woodbridge Group of Companies, LLC
c/o GCG
P.O. Box 10545
Dublin, OH 43017-0208

Woodbridge Group of Companies, LLC
c/o Riverdale Funding
207 Mockingbird Ln Ste 402
Johnson City, TN 37604-3137

Woodbridge Mortgage Investment Fund 3A, LLC
Klee, Tuchin, Bogdanoff & Stern LLP
1999 Avenue of the Stars
39th Floor
Los Angeles, CA 90067-6049

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

TitleMax Corporate Office
15 Bull Street
Savannah GA 31401-2685

(d)TitleMax of Georgia, Inc. d/b/a TitleMax
15 Bull Street, Suite 200
Savannah, GA 31401

US Premium Finance
280 Technology Parkway Suite 200
Norcross GA 30092

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)American Express Delta Sky Miles
PO Box 1270
Newark, NJ 07101-1270

(d)American Express Delta Sky Miles
PO Box 1270
Newark, NJ 07101-1270

(u)DEUTSCHE BANK NATIONAL TRUST COMPANY

(du)Deutsche Bank National Trust Company

(u)Georgia Department of Community Health

(u)JPMorgan Chase Bank, National Association

(u)King Group Mgmt, LLC

(u)Ocwen Loan Servicing, LLC

(u)ReadyCap Lending, LLC

(u)Select Portfolio Servicing Inc.

(u)Sukhmani Investments, LLC

(u)Wilmington Savings Fund Society, FSB, as t

End of Label Matrix
Mailable recipients 243
Bypassed recipients 12
Total 255